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not manufacturers, sold a folding bed to the plaintiff without any express warranty of any kind. The bed proved dangerous to persons using it, not from defective parts but from faulty design. By reason of the fault the bed collapsed, injuring plaintiff. The defendants had no knowledge of this danger. The mechanism of the bed could be observed by the plaintiff as well as by the defendant, but neither, unless skilled in mechanics, would have been likely to have discovered the danger. The court held there was no liability.

R. F. M.

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**THE EFFECT UPON AN ILLEGAL MARRIAGE OF COHABITATION AFTER THE REMOVAL OF THE IMPEDIMENT.**—The defendant's wife obtained a decree of divorce from him, but before the decree became absolute he married another woman. The parties involved in this latter marriage separated, but subsequently cohabitated after the divorce obtained by the first wife was made absolute. On an indictment charging defendant with polygamy, the Massachusetts court held that the invalidity of such second marriage was not cured by the subsequent cohabitation of defendant and his second wife after such decree became absolute. *Commonwealth v. Stevens* (1907), — Mass. —, 82 N. E. Rep. 33.

The question whether a marriage, void because of an existing marriage, can be made valid by cohabitation after the removal of the impediment, is decided in the following cases: *Williams v. State*, 44 Ala. 24, where the court held that cohabitation, though evidence of marriage, cannot make a void marriage valid. The Illinois court, in *Cartwright v. McGown*, 121 Ill. 338, held that cohabitation after the removal of the impediment will not alone change the marriage from being meritorious. Similar holdings are found in *Summerlin v. Livingston*, 15 La. Ann. 519; *Thompson v. Thompson*, 114 Mass. 566; *Voorhees v. Voorhees*, 46 N. J. Eq. 411; *Pettit v. Pettit*, 105 App. Div. 312, 93 N. Y. S. 1001; *Collins v. Collins*, 80 N. Y. 1; *Hunt's Appeal*, 86 Pa. St. 294.

On the other hand the following cases are opposed to the doctrine laid down in the principal case: *Stein v. Stein*, 66 Ill. App. 526; *Blanchard v. Lambert*, 43 Iowa 228; *Donnelly v. Donnelly*, 8 B. Mon. (Ky.) 113; *Turner v. Turner*, 189 Mass. 373, 109 Am. St. Rep. 643, 75 N. E. 612; *State v. Worthington*, 23 Minn. 528; *Chamberlain v. Chamberlain*, 68 N. J. Eq. 414, 62 Atl. 680; *Fenton v. Reed*, 4 Johns. (N. Y.) 52; *Rose v. Clark*, 8 Paige (N. Y.) 574; *Taylor v. Taylor*, 25 Misc. Rep. (N. Y.) 566, 55 N. Y. S. 1052; *The Breadalbane Case*, L. R. 1 H. L. Sc. 182; *De Thoren v. Attorney General*, L. R. 1 App. Cas. 686. *Taylor v. Taylor*, supra, decided that a marriage entered into by a woman whose former husband was absent for five successive years, and who was not known to be living, is voidable and is made valid by the continued cohabitation of the parties after the former husband's death. The court in *Chamberlain v. Chamberlain*, supra, followed the holdings of *The Breadalbane Case* and *De Thoren v. Attorney General*. The case was distinguished from *Voorhees v. Voorhees*, supra, decided by the same court fifteen years before, in that the marriage was contracted in good faith, the parties

having reason to believe that the wife's former husband was dead; while in *Voorhees v. Voorhees* the marriage was meretricious, and the court held that cohabitation after the decree of divorce did not make the marriage valid, as the decree put the parties back in their matrimonial relations just where they were when the decree was pronounced. *Turner v. Turner*, supra, came within the provisions of a statute, and on that account the marriage was declared valid.

The common law rule that marriages, voidable because of the lack of age of one or both of the parties, are made valid if the parties continue to cohabit after reaching the proper age, is followed by *Smith v. Smith*, 84 Ga. 440, 11 S. E. 496, 8 L. R. A. 362; *Koonce v. Wallace*, 52 N. C. 194; *Holtz v. Dick*, 42 Ohio St. 23, 51 Am. Rep. 791. The common law placed slaves in the same category as infants, as neither had the capacity to contract a valid marriage. Practically all the cases agree that a marriage between slaves is rendered valid by their cohabitation after emancipation. The more recent cases which hold the marriage valid are *Lewis v. King* (1899), 180 Ill. 259, 54 N. E. 330; *State v. Melton* (1897), 120 N. C. 591, 26 S. E. 933; *Ross v. Ross* (1882), 34 La. Ann. 860; *Dowd v. Hurley* (1880), 78 Ky. 260. However, a contrary holding is found in *Brown v. Beckett* (1867), 6 D. C. 253.

Where the marriage is invalid because one of the parties was insane at the time of its celebration, the general rule is that the marriage may be ratified by the cohabitation of the parties during lucid intervals. See *Prine v. Prine*, 36 Fla. 676, 18 So. 781; *Gross v. Gross*, 96 Mo. App. 486, 70 S. W. 393; *Cole v. Cole*, 37 Tenn. (5 Snead) 57, 70 Am. Dec. 275. A contrary decision is reached, however, in *Sims v. Sims*, 121 N. C. 297, 28 S. E. 407. Where the marriage is void because of fraud or other causes of fear, *Hampstead v. Plaistow*, 49 N. H. 84, holds that a voluntary cohabitation, after the fraud is known, and after the force or cause of fear is removed, will not cure the defect.

J. E. W.